

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

MARCUS WILLIS	§	
v.	§	CIVIL ACTION NO. 6:13cv194
DIRECTOR, TDCJ-CID	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Petitioner Marcus Willis, proceeding *pro se*, filed this application for the writ of habeas corpus challenging the legality of the revocation of his community supervision and adjudication of guilt. This Court ordered that the matter be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Willis was convicted of indecency with a child on March 5, 2009, receiving a sentence of ten years in prison, probated for ten years, and a \$5,000.00 fine. On May 4, 2009, the State filed a motion to revoke Willis' community supervision, and on June 23, 2009, the trial court found that Willis had violated the terms of his community supervision. The motion to revoke was granted.

Willis appealed the revocation, and the Twelfth Judicial District Court of Appeals affirmed the revocation on March 30, 2010. *Willis v. State*, slip op. no. 12-09-00195-CR, 2010 WL 1215145 (Tex.App.-Tyler, March 30, 2010, no pet.). Willis did not seek discretionary review, nor has he filed a state habeas corpus petition.

In his federal petition, Willis complains that the revocation hearing was unfair, he was denied the option of staying in compliance with the terms of his probation, and his parole officer entrapped him into committing the violation for which he was revoked. The Respondent has been ordered to answer the petition and has filed a motion to dismiss the petition based on the expiration of the

statute of limitations. Willis did not file a response to the motion, although he did discuss the limitations issue in his original petition.

After review of the pleadings, the Magistrate Judge issued a Report on September 6, 2013, recommending that the motion to dismiss be granted and that the petition be dismissed with prejudice. The Magistrate Judge also recommended that Willis be denied a certificate of appealability *sua sponte*. Willis received a copy of this Report on September 11, 2013, but filed no objections thereto; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings and records in this cause as well as the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. [16](#)) is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled application for the writ of habeas corpus is hereby DISMISSED with prejudice. It is further

ORDERED that the Petitioner Marcus Willis is hereby DENIED a certificate of appealability *sua sponte*. Finally, it is

ORDERED that any and all other motions which may be pending in this civil action are hereby DENIED.

So ORDERED and SIGNED this 16th day of October, 2013.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS
UNITED STATES DISTRICT JUDGE**